IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 902 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PATEL HIRABHAI DAHYABHAI

Versus

RAVISHANKAR MAHASHANKAR JANI

Appearance:

1. Special Civil Application No. 902 of 1998

MR MI MERCHANT for Petitioner No. 1-9

MR JV JAPEE for Respondent No. 1-5

MR DS PANDIT A.G.P.for Respondent No. 6

MR SANJAY M AMIN for Respondent No. 7

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 20/02/2003

ORAL JUDGEMENT

Feeling aggrieved by the judgment and order dated 3rd February, 1998 passed by the Gujarat Revenue Tribunal in Review Application no.TEN.C.A.23/1997 and the judgment and order dated 20th October, 1997 passed by the said Tribunal in appeal no.2/1995 and the order of the Charity Commissioner dated 14th September, 1994, made on application no.36136/1994 the petitioners have preferred the present petition.

The petitioners and the respondent no.7 are the tenants in the property of Shri Samarth Ramji Hindu Sarvajanik Dharmashala (hereinafter referred to as "the Trust") bearing City survey no.3234, Sub-City survey no.3341 to 3360 admeasuring 38000 sq.ft. situated at Himmatnagar. In response to the advertisement given by the Trust, the petitioners and the respondent no.7 made a joint offer to purchase the said property for the sum of Rs.21 Lakhs. Pursuant to the said offer, an application for permission to sell the said property was made to the Charity Commissioner. The Charity Commissioner under order dated 14th September, 1994 gave permission to the Trust to sell the said property and to execute the sale deed in favour of the respondent no.7. Feeling aggrieved, the petitioners preferred appeal no.2/1995 before the Gujarat Revenue Tribunal which was dismissed on 20th October, 1997. Review Application no.TEN.C.A.23/1997 was also dismissed by the said Tribunal on 3rd February, 1998.

Mr.Merchant has submitted that all the tenants i.e. the petitioners and the respondent no.7 had made a joint offer to purchase the said property for the sum of Rs.21 Lakhs. However, the Charity Commissioner had without considering the interest of the petitioners issued direction to sell the property to the respondent no.7 alone. Mr.Merchant has also submitted that the petitioners are ready and willing to purchase the said property jointly even at the prevailing market price.

Learned advocate Mr.Japee has appeared for the Trust and has informed that on account of pending litigation the sale in question could not materialise. Now the Trust has no intention to sell the said property.

In above view of the matter, the dispute with regard to sale of the said property to the petitioners or the respondent no.7 shall not survive. The petition is, therefore, allowed. The impugned orders dated 14th September, 1994 made by the Charity Commissioner on application no.36136/1994 and the judgment and order dated 20th October, 1997 passed by the Gujarat Revenue

Tribunal in appeal no.2/1995 and the judgment and order dated 3rd February, 1998 passed by the Gujarat Revenue Tribunal in Review Application no.TEN.C.A.23/1997 are quashed and set aside. The application no.36136 of 1994 is rejected. Rule is made absolute. The parties shall bear their own costs.

[Ms.R.M. Doshit, J.]

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